

MINUTES
CITY OF HOLMES BEACH CITY COMMISSION WORK SESSION
REGULAR MEETING WILL FOLLOW
PATRICIA A GEYER COMMISSION CHAMBERS
5801 MARINA DR, HOLMES BEACH, FL 34217
TUESDAY, OCTOBER 23, 2018 – 6:00 P.M.

PLEDGE OF CONDUCT: We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

1. CALL TO ORDER

Chair Titsworth called the meeting to order at 6:00 p.m. and noted the Work Session is being held prior to the Regular meeting.

2. ROLL CALL

Present: Commissioner Hurst, Commissioner Morton, Commissioner Kihm, Commissioner Soustek, and Chair Titsworth.

Also present: Mayor Johnson, City Attorney Petruff, City Clerk Johnston, Planner Brisson, and Engineer Burnett.

3. QUESTIONS AND COMMENTS FROM THE PUBLIC AND PRESS

Spring Lake

Boyd Grayson, 6818 Palm Drive, expressed concern about the possibility of Spring Lake turning back into a clean lake situation. He said it was originally a fresh water lake that failed. Mr. Grayson provided some history and made recommendations.

Resident, Holmes Beach, noted the pipe had collapsed at the inlet.

Vacation Rental Certificate Ordinance

Nancy Deal, 203 56th Street, addressed the VRC (Vacation Rental Certificate) Ordinance and advertisements advertising over occupancy. She said she found 14 ads for two to four bedroom homes. Eight of the advertisements were advertising for 10 - 12 people.

Chair Titsworth informed the proposed VRC Ordinance changes up for discussion would be addressed that evening.

Ms. Deal provided suggestions in relation to the Noise Ordinance, feeling excessive noise should not be permitted day or night.

Spring Lake - Continued

Boyd Grayson, 6818 Palm Drive, provided additional comments about the King Tides. He said he has only seen one – although at the time, it was not a big issue. He also referenced a 'tide gate' once located at Spring Lake, which has since been removed.

Chair Titsworth provided details on research she did on Spring Lake, referencing artesian wells. She said this item will be on a future agenda.

Mr. Grayson said the artesian well is still there in the southwest corner of the lake. It is a white plastic pipe that is capped with an electric motor. He believes Bob McCaffrey owns the property. He added Spring Lake has always been fresh water, and at one time someone applied for a permit to bottle the water.

Louie Strickland, 3104 Avenue E, thanked the Commission and staff relating to addressing the situation.

NEW BUSINESS**4. DRAFT ORDINANCE 18-16 – ULTRALIGHT VEHICLES AND OTHER AIRCRAFT
"AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA, AMENDING CHAPTER 30, ARTICLE IV (NUISANCES), BY ADDING SECTION 30-87 AND SECTION 30-88 TO THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH TO BE ENTITLED "NUISANCE – OPERATION OF ULTRALIGHT VEHICLES AND OTHER AIRCRAFT IN AND OVER CONGESTED AREAS" AS AUTHORIZED BY CODE OF FEDERAL REGULATIONS, TITLE 14 ("AERONAUTICS AND SPACE")."**

Chair Titsworth read the Ordinance title.

Chief Tokajer stated complaints have been received about a weight-shifted ultra-light that flies along the beach and comes and goes from City property. He said he had an agreement with the business owner that he would not buzz the beach. The owner of business then called and said he wants to begin picking up customers from the beach. Chief Tokajer said he would like to keep the ultra-light a reasonable distance and height from the beach, and does not want the business owner landing and taking off from City property. He believes the draft Ordinance allows the City to prevent the business owner's request.

In response to Commissioner Hurst, *City Attorney Petruff* stated her office drafted the Ordinance.

Commissioner Hurst asked about Section 2(a) and how 'recreational' is being defined. He asked if the definition should be referenced – as defined by another Ordinance.

City Attorney Petruff referenced the Zoning Ordinance – as depicted in the LDC and on the zoning map.

Chief Tokajer brought attention to the 'Whereas' clauses reference.

Further discussion continued with *City Attorney Petruff* stating she can be very specific with language if requested.

Chair Titsworth suggested adding beach areas and parks.

Commissioner Hurst referenced Section 2(b) feeling that section was defining what an ultra-light vehicle is. He suggested either 'and' or 'or' be added.

City Attorney Petruff informed the definition in the Ordinance was taken from the FAA and supplemented with additional language. Section 2(c) states 'all aircraft', as people are designing new things that fly - thus the reason for adding (c).

Commissioner Hurst addressed penalties and asked if \$750.00 was high enough. He felt in the future, people may not care about the \$750.00 fine.

Chief Tokajer stated he had no objection to increasing the penalty amount if needed.

Commissioner Hurst suggested any fourth violation should be \$5,000.

Discussion followed on the appropriate amount of fines. *City Attorney Petruff* felt the maximum fine allowed by State Statute was \$2,500 but would check.

Commissioner Kihm proposed: 1st Offense - \$500.00; 2nd - \$1,000.00; 3rd - \$2,000.00; and then 4th Offense being the highest.

Chief Tokajer suggested the 4th violation be sent to the Special Magistrate.

Commissioner Kihm reminded the business is a money-making operation. To discourage it, he felt there needs to be high penalties in order to get their attention.

Action: Commission consensus – 1st violation - \$500; 2nd violation \$1,000.00; 3rd violation \$2,000.00; and whatever maximum is allowed by State Statute for 4th violation/Special Magistrate. Change the maximum civil penalty for any infraction to \$750.00 (page 4).

City Attorney Petruff did not feel Draft Ordinance 18-16 should be placed on First Reading until further research is done.

In response to *Commissioner Soustek*, *Chief Tokajer* said the intent is that no one can land or pick up within Holmes Beach's certain perimeters of 1000/2000-ft.

Mayor Johnson asked if they should consider any time differential between violations.

City Attorney Petruff said they have within a year/cumulative.

5. DRAFT ORDINANCE 18-17 - GOLF CARTS/LOW SPEED VEHICLES

"AN ORDINANCE OF THE CITY OF HOLMES BEACH AMENDING, SECTION 62-38 OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH, FLORIDA TO REDEFINE THE AREAS WHERE GOLF CARTS ARE ALLOWED ON CITY STREETS; AND DELETING EXISTING SECTION 62-40 AND ADDING A NEW SECTION 62-40 PERTAINING TO THE OPERATION OF LOW SPEED VEHICLES ON CITY STREETS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE."

Chair Titsworth read the Ordinance title.

Chief Tokajer said he is opposed to anyone driving a golf cart and holding an infant child in their lap. The current Ordinance for golf carts does not regulate seatbelts or child seats. He noted Holmes Beach is the only City on the Island that even allows golf carts. He is recommending the same as other Island Cities/low speed vehicles and provided further information.

He referenced the slow speed of golf carts, which often results in angry drivers.

Commissioner Soustek said her concern is even some low speed vehicles go slower than the speed limit, and asked if there a law to maintain the flow of traffic.

Chief Tokajer said low speed vehicles are permitted by Statute to be on roadways that are 35 mph or less. As a City, changes to the Low Speed Vehicle Ordinance, as well as the Golf Cart Ordinance, can be made allowing the City to add extra parameters.

The Map showing mandated/allowed roads for Golf Carts was displayed and referred to by *Chief Tokajer*. He pointed out State statute requires someone to be 14 years old to drive a golf cart. He superseded the Statute in the proposed Ordinance by mandating one must be a licensed driver.

He said with the Draft Ordinance, he is looking to implement language stating low speed vehicles will not be able to be on a roadway 35 mph or higher – only on a road 30 mph or less.

City Attorney Petruff noted the Draft Ordinance allows people to cross a road to get to allowed streets. Discussion continued on low speed vehicles and golf carts.

Commissioner Soustek said she likes the Draft Ordinance and felt it would be an improvement in many ways.

Discussion followed on electric versus gas golf carts, in addition to the three-wheeled cars registered as a scooter (licensed driver required but unable to put any parameters on).

Chair Titsworth said her concern is taking rights away from people who want to drive a golf cart on the back streets or drive to the beach. She does not believe someone should have to pay additional money to make their golf cart street legal - when they have been using it to go to the beach for many years. She said she understands the safety issues, but is concerned with taking too many rights away.

Chief Tokajer presented the option of adding parameters to the Golf Cart Ordinance which only mandates seat belts and car seats for children.

Discussion and explanation continued on the cost to make a golf cart street legal.

Chief Tokajer said many people park golf carts wherever they want. He reminded they are unable to issue a ticket since there is no tag or identification.

He suggested the Commission only mandate seatbelts and car seats for children. Again, he said his concern is people holding infants on their lap.

Commissioner Kihm said he sees the issue as a public safety issue. With more traffic on the Island, it increases the probability that something can happen. He believes a minimum requiring seat belts and child seats is good.

Commissioner Hurst is also for seat belts and child seats - but with six months to comply. He added he has a hard time requiring full street legal golf cart.

Chair Titsworth said she has received a lot of phone calls in opposition to golf carts having to be street legal updated.

Commissioner Soustek is looking at the situation as a responsible resident that owns a golf cart. She suggested a registration program be implemented in City Hall, to include an identifying decal. She would like to prevent residents having golf carts to now be required to make them street legal.

She added she does not agree with seat belts being needed. However, as Safety Officer, if Chief Tokajer feels they are needed, then she would be in agreement with the change. But she is not ok with having residents being required to register the golf carts as street legal with the State.

Discussion continued on low-speed vehicles and golf carts/violations, seat belts, and licensed driver.

City Attorney Petruff asked if allowing golf carts on city streets under 35 mph would require licensed drivers.

Chief Tokajer informed the current Ordinance states they must be licensed. He would also stay with the same golf cart map currently in force.

Chief Tokajer informed that the violation will be \$116.00 if someone is not wearing a seat belt in a low speed vehicle. Discussion continued.

Action: It was the consensus that the current code language will stay as written, which does allow low speed vehicles on roads marked at 35 mph.

Discussion followed relating to paths to the beach, golf cart paths, and reaching out to golf cart rental companies in regards to maps. They also discussed 43rd Street becoming one-way allowing for a golf cart path.

City Attorney Petruff clarified that the City Commission would be looking to allow golf carts on the same streets they are currently allowed to operate on. But the City would now require they have seat belts - and all children under age (per law) must be strapped into an appropriate car seat or infant seat.

City Attorney Petruff asked if the Commission wanted to consider a registration program for golf carts.

Chief Tokajer said he will think about that and come up with a plan.

6. DRAFT ORDINANCE 18-18 - VACATION RENTAL CERTIFICATE (VRC) CHANGES

"AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA AMENDING CHAPTER 4 OF THE CITY'S CODE OF ORDINANCES BY AMENDING SECTION 4-4 DEFINITIONS TO AMEND THE DEFINITION OF THE TERM "BEDROOM" AND TO ADD A DEFINITION FOR THE TERM "VIOLATOR"; AMENDING SECTION 4.5(g) RELATING TO INSPECTION REQUIREMENTS; AMENDING SECTION 4.5(h) IN ITS ENTIRETY TO CLARIFY TRANSFER REQUIREMENTS; ADDING A NEW SECTION 4.5(i) PERTAINING TO FAILURE TO COMPLETE THE APPLICATION PROCESS; ADDING A NEW SECTION 4.5(j) PERTAINING TO OPERATION WITHOUT A VALID VACATION RENTAL CERTIFICATE; AMENDING SECTION 4.6(a) TO ADDRESS MEETING MINIMUM STANDARDS FOR HABITABLE STRUCTURES; AMENDING SECTION 4.6(a)(2) REGARDING INSTALLATION OF POOL ALARMS; AMENDING SECTION 4.6(a)(3) TO CLARIFY THE DEFINITION OF BEDROOMS; ADDING A NEW SECTION 4.6(a)(10) PERTAINING TO ELEVATORS; BY AMENDING SECTION 4.8 BY ADDING A NEW PARAGRAPH (d) RELATING TO CHANGE OF OWNERSHIP; AMENDING SECTION 4.11 PERTAINING TO VIOLATIONS; AMENDING SECTION 4.12 TO ADDRESS PADS FOR SOLID WASTE RECEPTACLES; AMENDING SECTION 4.14 TO PROVIDE CLARIFICATION FOR ADVERTISING REQUIREMENTS; AMENDING 4.16 TO CLARIFY REQUIREMENTS FOR NOTICE TO TENANTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE."

Chief Tokajer said in the last couple of years, they have realized violations are occurring that are not addressed in the current Ordinance. In the Draft Ordinance, they have specified items someone can be immediately fined for. The listing was read into the record. It was noted the proposal is for a \$150.00 fine and five days to come into compliance as set before code. The fine will stand, but if someone does not come into compliance, they would then have to go before the Special Magistrate.

The Draft Ordinance states there would be 30 days to schedule an inspection.

Commissioner Hurst felt all violations are not created equal and believes some should be higher fines than others. He asked if the City Commission would consider being higher on some violations.

Chief Tokajer said they are trying to bring people into compliance. He reminded the Special Magistrate can impose daily fines.

Commissioner Soustek said she is in agreement with the fee schedule – the goal is compliance. If not, then Special Magistrate and daily fine.

Commissioner Kihm said the current Ordinance was adopted two years ago. They now have to address issues. They are now focusing on the outliers which refused to come into compliance. He feels the \$150.00 in comparison to the cost for a weekly rental is very small, and believed having to pay a higher fine would get their attention.

Chair Titsworth felt the Special Magistrate daily fines should be increased. Also, she felt daily fines should be implemented from the date of the advertisement, to when the violation is found. She feels it should happen before the 3rd violation.

Commissioner Soustek reviewed how the process works in St. Petersburg.

Chair Titsworth said Code Enforcement Officer Thomas wants to see violators go before the Special Magistrate.

City Attorney Petruff stated the goal of Code Enforcement is compliance - not punishment. The City should generally provide a period of time for someone to come into compliance - which could even be 48 hours.

She said she has no problem if the City Commission wants to remove the advertising language since it has seen its fair share of abuse. But they still have to provide time for someone to come into compliance.

Chief Tokajer suggested the following amendments to the proposed Ordinance:

Remove advertising; renting without a valid Vacation Rental Certificate (VRC); renting for improper length of stay; choose a higher fine; and take to Special Magistrate if the person does not come into compliance within five days. He added with the 2nd offense, they could double the fine.

City Attorney Petruff reminded it does not have to be five days, it can be 48 hours. Whatever the Code Enforcement Officer feels is reasonable. Also, if a violator was not in compliance within a specific time, then another violation can be issued at a higher amount.

Commissioner Kihm addressed allowing time for compliance. He reminded the Vacation Rental Certificate (VRC) program has been in place for two years. He finds it hard to believe there is someone that does not know what the Commission is trying to do.

He proposed that the 1st violation be \$500.00, then doubled on the 2nd violation - at which point it would go to the Special Magistrate if not corrected within 48 hours.

Chair Titsworth clarified that Commissioner Kihm was proposing to send the violator to the Special Magistrate on the first violation if not corrected within 48 hours. *Commissioner Kihm* said yes.

Mayor Johnson felt 48 hours was a short period of time - and corrections may not happen within that timeframe.

Commissioner Kihm recommended encouraging people to be pro-active and not be in violation in the first place.

Commissioner Morton said he likes 48 hours but felt 24 hours would be better.

In response to *Commissioner Hurst*, *Chief Tokajer* advised the contract cost for the company to search out rentals (iCompass Technologies) is \$30,000 for the year. A contract will be forthcoming.

City Attorney Petruff informed the City is not currently under contract, as the company is not licensed to do business in the State of Florida.

Commissioner Hurst feels if the City is paying \$30,000 for the service, the fine should be higher for violations. Discussion continued.

Commissioner Kihm proposed for the balance of the bullet points on page 4 - \$250 for 1st violation, and \$500 for the 2nd violation.

City Attorney Petruff stated that would be the penalty for any violation of the Vacation Rental Certificate (VRC) Ordinance. She said it is a generic violation section noting someone could violate any section of the Ordinance.

She added the Code Enforcement Officers did not feel the existing Ordinance was clear enough - thus, the purpose for the bulleted items.

Commissioner Hurst clarified that there will be six items that will be a greater amount than the proposed \$250.00. He does feel that \$250.00 is excessive for some items.

Discussion continued on Section 15 – excessive or boisterous noise. *Chair Titsworth* feels daytime should be addressed, stating it's not just a nighttime issue. She asked how language can be worded that it is prohibited in a residential area.

Chief Tokajer referred to language in Section 15(a)(3).

Commissioner Soustek felt it should address day and night.

Action: It was the consensus of the Commission that Section 15(a)(4) be amended to read as follows: "Notice that quiet hours are to be observed between 10:00 p.m. and 7:00 a.m. Excessive or boisterous noise or sound is not permitted at any time."

Chief Tokajer suggested Section 15(a)(3) include: 'day or night' after respectful level.

Commissioner Kihm asked for the definition of excessive or boisterous noise and respectful level.

City Attorney Petruff said she is not sure that can be defined. They would have to go back to the Noise Ordinance which allows for either a decibel reading or a reasonable standard.

Chair Titsworth asked if Section 15(a)(4) should include 'written' notice such as stated in (3). *City Attorney Petruff* agreed.

Commissioner Hurst referred to Section 15(a)(5) – he does not like the first sentence and suggested moving the second sentence up to Section (a)(3) and removing psychological effect wording.

Commissioner Kihm disagreed with removing wording, feeling it is a key point for many residents.

Chair Titsworth likes Subsection (a)(5), but agrees with Commissioner Hurst on moving the last sentence up to (3).

Commissioner Soustek suggested having in both places.

Discussion continued on Section 15 with Commissioner Hurst stating he would like information on fines to be placed in Section 15(a)(4) - (on the single page or in notebook). He does not want a renter to have to go online to determine what a fine would be.

City Attorney Petruff referred to the Ordinance language noting the Ordinance is more for owners of a vacation rental unit. The notebook is to bring awareness and educate renters. She has no issue adding language such as 'Failure to abide by rules of City of Holmes Beach can result in fines both for owner/tenant/guest – please refer to the City's website'.

Chair Titsworth noted Section 15(a)(6) refers to fines.

City Attorney Petruff believes Section 15(a) implies a 'written notice' - but she can add 'written notice' to Sections 7, 8, 9 & 10.

Commissioner Soustek asked about changing the noise hours for winter.

City Attorney Petruff reminded that is in the Noise ordinance.

Chair Titsworth noted they have not discussed weddings, parties, and events in residential areas. She referenced R-1 property that does not require a VRC (monthly) – and City being told that properly owner is just allowing the property to be used at no charge.

Chief Tokajer said he is checking with other beach communities as to how they are handling and will bring information back to Commission. He added the only complaints received on weddings were ones held on 48th Street and on White Avenue.

City Attorney Petruff noted there are only internal changes to the Draft Ordinance, and that the Ordinance title will not change. She felt the Commission can proceed with First Reading of the Ordinance that evening.

In response to Chair Titsworth, *Building Official McGuinness* said he is okay with the definition of bedroom as stated in the Draft Ordinance.

City Attorney Petruff believes they will need to change bedroom definition in the Land Development Code (LDC) in order to comply with Vacation Rental Certificate (VRC) and also amend Chapter 14 where FL Building Code was adopted. It was noted the FL Building Code has a different definition of a bedroom.

She feels it is a good time for Building Official McGuinness to review the changes that have been adopted. Building Official McGuinness needs to be happy with all other specificities where Holmes Beach differs slightly from FL Building Code language (local regulation). Once local regulation has been adopted, the City is then required to notify the State of any changes.

Building Official McGuinness stated the FL Building Code uses the term sleeping room and not bedroom.

Discussion followed on number of bedrooms and how people were approaching the County to have the bedroom information changed. The Building Department is now specifying the number of bedrooms on the Certificate of Occupancy (CO).

7. CITY FIELD UPDATE – ENGINEER BURNETT

Engineer Burnett distributed a large copy of the proposed multipurpose field map, and provided a recap from last the Work Session including:

- Splash park in the future
- Existing Dog Park approximately .59 acres – expanded area of .86 acres shifts
- Allows for overflow car and boat parking
- Shuffle board/bocce off of Marina Drive
- Skate Park – same footprint in order to preserve memorial tree
- Still room for overflow parking/Skullywag boat (AMI Privateers)
- Still staging area for construction
- Keeps construction equipment off of Flotilla

Engineer Burnett discussed feedback received regarding the Dog Park and Skate Park, and reasons why some decisions were made. She said if consensus is given, she will start moving forward and bring details back as budgeted.

Commissioner Hurst said he would like to be respectful to those on 61st Street. He also would like to see having a landscaping/sound barrier.

Engineer Burnett said there is a healthy buffer and vegetation there currently - grasses, shrubs, and trees.

In response to *Commissioner Hurst*, *Engineer Burnett* said there is space to eventually add a splash park up by the comfort station close to the tot lot. And can add extra components such as swing sets at the tot lot. Discussion followed relating to the Skate Park configuration and exercise stations.

Action: Consensus to move forward. All were in favor.

UNFINISHED BUSINESS – None.

ANNOUNCEMENTS

8.

- TUESDAY - NOVEMBER 6, 2018 – ELECTION DAY**
- WEDNESDAY – NOVEMBER 7, 2018 – PARKS & BEAUTIFICATION – 10:00 A.M.**
- WEDNESDAY – NOVEMBER 7, 2018 – PLANNING COMMISSION – 6:00 P.M.**
- MONDAY – NOVEMBER 12, 2018 – VETERAN’S DAY HOLIDAY – OFFICE CLOSED**
- MONDAY – NOVEMBER 12, 2018 – VETERAN’S DAY MEMORIAL CELEBRATION – 9:00 A.M. TO 10:00 A.M. – VETERANS MEMORIAL PARK**
- TUESDAY – NOVEMBER 13, 2018 – CITY COMM REGULAR MTG W/WORK SESSION TO FOLLOW – 6:00 P.M.**
- MONDAY – NOVEMBER 19, 2018 SWEARING IN CEREMONY FOLLOWED BY ORGANIZATIONAL MEETING – 9:00 A.M.**

9. QUESTIONS AND COMMENTS FROM MAYOR AND CITY COMMISSION

Tot Lot/Splash Park

Commissioner Kihm referred to correspondence received from a resident who offered to contribute playground equipment to the Tot Lot, and also organize a fundraiser for the Splash Park.

Water Off

Mayor Johnson reminded he sent information to the Commission about water being temporarily shut off at Gulf Drive, south of East Bay Drive. The information had also been posted on the City’s website.

10. QUESTIONS AND COMMENTS FROM CITY ATTORNEY – None.

11. QUESTIONS AND COMMENTS FROM CITY STAFF

Police Services

Chief Tokajer informed the City has received the contract from Manatee County for Police Services. It has been reviewed by City Attorney Petruff. The amount has not increased and he is requesting permission for Mayor Johnson to sign.

City Attorney Petruff noted approval to sign should be requested at a Regular meeting.

Spring Lake

Chair Titsworth asked Engineer Burnett to speak about Spring Lake.

Engineer Burnett said she has reached out to professionals who will work up a proposal for the various options as discussed. She has also reached out to companies regarding the cost to dredge the lake and remove pollutants. She is compiling as much information and historical records as possible.

Discussion followed on tie valves, WASTOP valves, king tides, and stormwater system to filter pollutants.

Chair Titsworth asked Engineer Burnett to provide updates at each Work Session.

12. QUESTIONS AND COMMENTS FROM PUBLIC AND PRESS – None.

ADJOURNMENT

The meeting was adjourned by Chair Titsworth at 7:55 p.m.

Stacey Johnston, MMC, City Clerk

Minutes Approved: _____

THIS IS NOT A VERBATIM RECORD; A DIGITAL RECORDING HAS BEEN MADE OF THE FOREGOING PROCEEDINGS OF WHICH THESE MINUTES ARE A PART. THIS RECORDING IS ON FILE AT THE CLERK'S OFFICE IN THE CITY OF HOLMES BEACH FOR TWO (2) YEARS.